

**REMARKS**

Favorable reconsideration and allowance of the subject application are respectfully requested in view of the following remarks.

**Summary Of the Office Action**

Claim 1 stands rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,510,111 to Matsuura (hereinafter "Matsuura").

Claim 2 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Matsuura in view of U.S. Patent No. 5,517,474 to Takamine (hereinafter "Takamine").

**Summary of the Response to the Office Action**

Applicants amend claims 1 and 2 by this amendment. Claims 1-2 remain currently pending for consideration.

**Claim Rejections Under 35 U.S.C. §§ 102(e) and 103(a)**

Claim 1 stands rejected under 35 U.S.C. §102(e) as being anticipated by Matsuura. Claim 2 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Matsuura in view of Takamine. To the extent that these rejections might be applied to claims 1-2, as newly-amended, they are respectfully traversed for at least the following reasons.

Applicants respectfully submit that the applied references, whether taken separately or in combination, fail to teach or suggest each and every feature of newly-amended claims 1-2. For example, it is respectfully submitted that neither Matsuura nor Takamine teaches or suggests the claimed combination as set forth in claim 1, as newly-amended, including at least "a level correcting portion for correcting a level of said tracking error signal on the basis of a detection result of said spherical aberration detecting portion" and "wherein said spherical aberration detecting portion generates a voltage signal as the detection result of the spherical aberration, and

said level correcting portion includes: a gain control signal generating portion for folding back said voltage signal on the basis of a predetermined reference level to generate a gain control signal; and an amplifying portion for receiving the tracking error signal generated from said tracking error signal generating portion and amplifying the received tracking error signal by an amplification gain corresponding to said gain control signal.”

For example, it is respectfully submitted that no portion of Matsuura’s or Takamine’s disclosure discusses correcting a level of a tracking error signal or folding back a detection result of a spherical aberration on the basis of a predetermined reference level to generate a gain control signal in the manner recited in newly-amended claim 1.

As a result, because Matsuura and Takamine, whether taken separately or in combination, fail to teach or suggest each and every feature of claim 1, it is respectfully submitted that claim 1 is allowable. Further, it is respectfully submitted that claim 2 also is allowable at least because of its dependence upon claim 1 and the features recited therein. Accordingly, withdrawal of the rejection of claim 1 under 35 U.S.C. §102(e) and withdrawal of the rejection of claim 2 under 35 U.S.C. §103(a) are respectfully requested.

### **Conclusion**

In view of the foregoing, withdrawal of the rejections and allowance of the pending claims are earnestly solicited. Should there remain any questions or comments regarding this response or the application in general, the Examiner is urged to contact the undersigned at the number listed below.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under

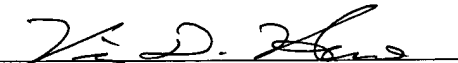
37 C.F.R. § 1.136 not accounted for above, such extension is requested and the fee should also be charged to our Deposit Account

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

Dated: January 26, 2005

By: \_\_\_\_\_



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